



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,500	06/01/2001	Matthew Denesuk	70961-26	2079

20915 7590 08/15/2002

MCGARRY BAIR LLP  
171 MONROE AVENUE  
SUITE 600  
GRAND RAPIDS, MI 49503

EXAMINER

PRICE, RICHARD THOMAS JR

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED: 08/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/872,500

Applicant(s)

DENESUK ET AL.0

Examiner

Thomas Price

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-58 is/are pending in the application.
- 4a) Of the above claim(s) 19-44 and 47-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45,46 and 56-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 45, 46, 56 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plunk (U.S. Pat. 5,560,320) in view of Seabrook et al (U.S. Pat. 5,554,373).

Plunk '320 teaches a play and chew toy for dogs having an outer textile casing formed of a tough, chew-resistant material defining a shape in the form of a small article for luring or being fetched by a domestic animal. The outer casing is provided with an outer skin formed of soft synthetic fibers 20 carried by a flexible backing 22. See column 2, second paragraph. However, Plunk does not discuss the use of a microbe-cidal agent applied to the textile casing in an effective amount. Seabrook et al '373 disclose compositions such as polymers containing anti-microbial agents incorporated into the polymeric materials to protect the materials from attack and infestation of microorganisms such as those disclosed in columns 9-12. In addition, Seabrook et al disclose in columns 6 and 7 a list of products such as veterinary products in which the anti-microbial agents can be incorporated therein. Moreover, Seabrook et al teach a microbe-inhibiting agent in the form of 2,4,4'-trichloro-2'-hydroxydiphenol. Regarding claims 45 and 56, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to modify the apparatus of Plunk '320 with an microbe-cidal agent, in view of the teachings of Seabrook et al '373, in order to reduce or eliminate infestations of pests.

Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plunk (U.S. Pat. 5,560,320) in view of Seabrook (U.S. Pat. 5,554,373) as applied to claim 56 above, and further in view of Klatte (U.S. Pat. 5,885,543).

The combination Plunk '320 as modified by Seabrook '373 does not discuss the use of chlorine dioxide as a useful agent for killing biological contaminants. Klatte '543 teaches in column 1, lines 57-60, chlorine dioxide as a useful agent for killing biological contaminants. Regarding claim 57, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Plunk as modified by Seabrook with a chlorine dioxide, in view of the teachings of Klatte '543 in order to improve the efficacy of the microbe-inhibiting process.

### ***Conclusion***

Summary: Claims 45, 46 and 56-58 have been rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on Mon, Tues, Thurs & Fri 6:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for

Application/Control Number: 09/872,500

Page 4

Art Unit: 3643

the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Thomas Price  
Primary Examiner GAU: 3643

rtp  
August 11, 2002